



## USDA Labor-Management Relations Update (LMRU)

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### Mission

*The Mission of the USDA Office of Human Resources Management Labor Relations program is to provide expert advice and assistance to all levels of USDA staff and management, especially Labor Relations practitioners, so they are better able to meet their LR obligations while accomplishing the program goals of their Mission Areas and Offices.*

### USDA Issues Labor-Management Relations Guidance on Performance Appraisal Programs

With the advent of Human Capital Performance Fund and standards set by the Office of Personnel Management (OPM) in meeting Human Capital goals for a “results-oriented performance culture”, many agencies are assessing whether they will need to modify their performance appraisal programs. This is of particular concern to those agencies with pass/fail appraisal programs where it is more difficult to meet the standard of making distinctions between levels of performance in order to document performance-related recognition.

Last month, at the request of the Office of the Assistant Secretary for Administration, OHRM-Labor Relations developed [guidance](#) for presentation to the USDA Deputy Administrators for Management that addressed the labor relations obligation associated with changing performance appraisal programs. Labor relations practitioners, especially those at agency headquarters, should ascertain whether program changes are being contemplated and ensure managers receive appropriate labor relations advice. The subject guidance is also posted on the USDA Labor Relations web site at <http://www.usda.gov/da/employ/program-guidance.htm>.

### LERACTRS Progress Report

Although not yet a common USDA acronym, the Labor and Employee Relations Automated Case Tracking and Reporting System (ler-ACTORS), continues to receive more attention from USDA officials who will play a role in its eventual deployment. In May, the Mission Area Human Resources Directors were briefed on the project at their Human Resources Leadership Council meeting, along with a request for supplemental funds to allow the present MS Access program to be converted to a web-based application. Also in May, the first meeting of the LERACTRS agency [Points of Contact](#) (POC) was held to review their roles in coordinating the various deployment-related tasks necessary for successful implementation. The draft [deployment](#) and [communication](#) plans were also discussed. In June, the agency POC will meet again to receive “hands on” LERACTRS training. Significant issues currently being addressed by the LERACTRS Teams include: securing funding for conversion to the web, coordination with the Office of the Chief

Information Officer to obtain necessary clearances/waivers, and finalizing web hosting arrangements.

### **New Faces in New Places within USDA Labor Relations**

**William Kent** – Human Resources Specialist (Labor Relations), Food Safety and Inspection Service, Washington, DC. Bill comes to USDA from the IRS where he was a Labor Relations Specialist.

**Anita Adkins** – Human Resources Specialist (Employee Relations), Forest Service, Washington, DC. Prior to the Washington Office, Anita was the Human Resources Officer on the George Washington-Jefferson National Forests in Virginia.

### **Monthly USDA Labor Relations Teleconferences Take Root**

Since March 2004, on the second Thursday of every month from 1:00pm until 2:00-ish, most of the USDA Labor Relations Officers and some of their key staff have been talking shop. From all indications, this effort to improve communication amongst USDA agencies and the Department is achieving its objective. The calls follow a prescribed format of:

- Updates and reminders on current events,
- Discussion of recent significant case law decisions of interest (in May we talked about lessons learned from arbitration exception case: *Federal Bureau of Prisons, Metropolitan Detention Center, Guaynabo, Puerto Rico and American Federation of Government Employees, Council of Prisons, Local 4052*, 0-AR-3701, March 31, 2004, 59 FLRA No. 141; wherein the FLRA modified its application of prong II of the BEP test when there is an appropriate remedy provided for by law (in this case Title VII of the Civil Rights Act).
- Discussion of Mission Area questions/issues, and
- Sharing informational topics by Mission Areas.

### **June USDA Labor-Management Relations Training Class Cancelled – Next Offering November 15-19, 2004**

Due to an insufficient number of registrations during the enrollment period; *Labor-Management Relations for the Human Resources Practitioner*, scheduled for June 7-11, 2004, in Washington, DC, was cancelled. The low enrollment numbers were discussed during the May LRO teleconference, with travel costs and insufficient marketing within the USDA LR community cited as the likely reasons. Focused communication by both the Department and Mission Area LR offices prior to the November class is planned. It was also suggested the course be offered in Kansas City at some point. The course features an overview of the Federal Service Labor Management Relations Statute and its application, as well as a mock negotiation exercise using both the traditional and interest-based models.

### **OPM Federal Workforce Conference – Registration Open**

In a departure from its previous format of hosting separate program specific conferences such as the Symposium of Employee and Labor Relations (SOELR), this year on

September 8-10, the Office of Personnel Management will sponsor a “superconference” – the Federal Workforce Conference in Baltimore, MD. Workshops are organized around the six Human Capital standards contained in the President’s Management Agenda for Human Capital, with most of the labor relations sessions located under the “Talent” standard. Electronic registration is now open at <http://apps.opm.gov/conference/index.cfm>. Motel reservations can be made from the site as well.

### **Service Center Agencies (SCA) IT Convergence - Update**

As we have been reporting to you in previous issues of the *LMRU*, for over a year now Rural Development, Farm Service Agency and Natural Resources and Conservation Service, aka the Service Center Agencies (SCA), have been working with the Office of the Chief Information Officer (OCIO) on a transfer the function that will affect over 700 employees.

Although the transfer date has not yet been set, the SCA have been making steady progress in meeting their labor-management obligations, and together with the OCIO and Union representatives have started working to address the issues of post-transfer representation. In April 2004, a meeting attended by USDA and National Office union officials from AFSCME, NTEU, and AFGE, OCIO, SCA, and FLRA, the parties laid out their respective interests as a first step in developing options to address how representation issues may be resolved. Once detailed transfer and staffing data is available, the parties will meet again to discuss representation options within the OCIO, and interim arrangements on how labor-management obligations will be met pending a final determination by the FLRA. For more information about the convergence visit the OCIO web site at [www.itconv.usda.gov/itconv](http://www.itconv.usda.gov/itconv).

### **Human Resources Reform at USDA**

Most of us have heard about efforts underway at the Department of Homeland Security and Department of Defense to establish new regulations and policies for human resources management authorized under separate enabling legislation. Once these two major initiatives are implemented, there will be more Federal employees under HR systems outside Title V than under it. One speaker at a recent meeting I attended labeled the agencies under Title V as the “left behinds”. How will these “left behinds”, like USDA, compete for and retain talent? How will that affect mission accomplishment? These questions and others like them are being considered by a recently established multi-agency USDA team – the HR Reform Work Group. Led by **Steve Mathews** (FSIS) and linked to both the USDA Human Resources Leadership Council and Human Capital planning effort, the Group’s Charter sets forth an ambitious mandate to identify and develop a strategy for HR reform within USDA. This strategy may include recommendations requiring waivers to existing laws or regulations or new legislation that would likely have a direct affect on many HR program areas, including labor relations. **Cheryl Dunham** (LRO-FSIS) and **Sarah Smalls** (LRO-RD) both serve as group members. To date the Group has done an extensive assessment of HR innovations taking place within the government and has developed a draft 3 year roadmap for developing and implementing a reform program within USDA. This initiative is one worth watching!

## A Negotiability Dispute and CADRO – Personal Experience

After over a year in negotiations, two rounds of Agency Head review and no contract, the bargaining unit had apparently reached its limit when it petitioned the FLRA to decide the negotiability of four provisions of its yet-to-be approved collective bargaining agreement. In its petition, the Union indicated it was not willing to consider alternative dispute resolution. By the time the Authority had scheduled the post-petition conference, agency and USDA management representatives discussed the disputed language, and concluded it was resolvable. About that time, **Andy Pizzi**, an LR Specialist from the FLRA's Collaborative and Alternative Dispute Resolution Office (CADRO) called and offered his assistance. Management agreed to participate in an ADR effort, and through Andy's efforts, the Union agreed as well. A short time later Andy facilitated a joint teleconference to explain CADRO's purpose, confirm the parties interest in using an interest-based ADR process and work out the logistics for the one day on site meeting that included special arrangements to have the Agency Head representative participate by phone. Prior to the scheduled meeting, the parties received an agenda and resource materials on the interest based process.

At the ADR session, in which both facilitation and mediation techniques were used, the parties were able to develop alternative language for all four provisions and sign off on it. The Union executed a document withdrawing its negotiability petition, and by the next day the agency had submitted and received approval of its collective bargaining agreement.

*Lesson learned:* Recognize that CADRO is a valuable resource in resolving negotiability disputes. I did. Even though this experience involved agency head contract disapproval, most negotiability disputes occur in conjunction with bargaining that takes place at the level of recognition. For more information about CADRO, including joint meeting facilitation services, see <http://www.flra.gov/cadr/cadr.html>.

### USDA Labor Relations “Watch List”

The following issues and/or upcoming events having potential impacts of conditions of employment bear monitoring and appropriate LR action. Updates are provided at monthly LRO teleconferences or as the need arise:

- ✚ USDA to discontinue Employee Express by October 1, 2004
- ✚ Agency competitive sourcing “green plans” developed by June 2004.
- ✚ Revised [Governmentwide] Mandatory Guidelines for Federal Workplace Drug Testing Program, Specimen Validity Testing to become effective Nov. 1, 2004.

The USDA LMRU is issued periodically by the USDA Office of Human Resources Management's (OHRM) Program, Policy and Partnership Division as a [method and means] to highlight significant events occurring in the federal Labor Relations profession within the Department. It will also contain what we believe to be useful LMR information received by the USDA from other federal agencies and outside sources that may not be readily available to the Mission Area Labor Relations community. Readers are encouraged to submit questions, suggested topics and LMR [news] to improve the utility of the LMRU. Queries and comments should be sent to [peter.rockx@usda.gov](mailto:peter.rockx@usda.gov).